

# EXHIBIT 2

00:00:59 IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
00:00:59 STATE OF MISSOURI  
00:00:59 Honorable Michael W. Noble, Judge  
00:00:59  
00:00:59

00:00:59 MARGO GILL, )  
00:00:59 )  
00:00:59 Plaintiff, )  
00:00:59 )  
00:00:59 V. ) Cause No. 2322-CC01251  
00:00:59 )  
00:00:59 MEAD JOHNSON & CO., ET AL., )  
00:00:59 )  
00:00:59 Defendants. )

00:00:59 TRIAL TRANSCRIPT

00:00:59 Friday, July 12, 2024

00:00:59 VOLUME 4B

00:00:59  
00:00:59 Sherry L. Gantner, RPR, CCR #839  
00:00:59 Official Court Reporter  
00:00:59 City of St. Louis Circuit Court  
00:00:59 Twenty-Second Judicial Circuit

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**JULY 12, 2024**

**PLAINTIFF'S EVIDENCE**

**DR. RANDAL BUDDINGTON**

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1 not, so I'm not going to restrict -- it is what it is.  
2 It is his compensation and so I think it is probative,  
3 especially the way counsel is saying they are going to  
4 use it in terms of allocation of resources as well as  
5 for the bonus structure for the sales reps.

6 So I'm going to deny the request to overrule  
7 Special Master Norton regarding the deposition of  
8 Miles White.

9 All right. Let's move on.

10 **MS. COBERLY:** Do you want to talk about  
11 Bouzamondo?

12 **THE COURT:** Let's do that at a break. I  
13 want to get some evidence.

14 (The following proceedings were held in the  
15 courtroom in the presence of the jury:)

16 **THE COURT:** Welcome back from lunch.

17 Welcome back, sir. You are reminded you are  
18 under oath and kind of get yourself resituated with  
19 that microphone, please.

20 Your witness.

21 **MR. PLATTENBERGER:** Thank you, Your Honor.

22 Welcome back, everybody.

23 **DIRECT EXAMINATION**

24 **BY MR. PLATTENBERGER:**

25 Q. Welcome back, Doctor. Good to see you

13:36:11 1 again.

13:36:11 2 I think we left off at the point in the  
13:36:13 3 story where you had concluded the research that Abbott  
13:36:17 4 hired you to do and published the results of that  
13:36:20 5 research; is that right?

13:36:21 6 A. Correct.

13:36:22 7 Q. Okay. And so ended your relationship with  
13:36:29 8 Abbott at least at that time; is that accurate?

13:36:33 9 A. It is.

13:36:33 10 Q. But at some point, you reestablished contact  
13:36:39 11 with Abbott; is that right?

13:36:40 12 A. I did.

13:36:42 13 **MR. PLATTENBERGER:** Your Honor, we offer  
13:36:43 14 P1167.

13:36:49 15 **THE COURT:** 1167.

13:36:53 16 **MS. ELIZABETH:** No further objections, Your  
13:36:54 17 Honor.

13:36:54 18 **THE COURT:** Her previous -- over previous  
13:36:57 19 objections, it will be admitted.

13:36:59 20 **MR. PLATTENBERGER:** Thank you, Your Honor.

13:37:00 21 **THE COURT:** You may publish.

13:37:01 22 Q. (By Mr. Plattenberger) Okay. We are going  
13:37:02 23 to run through some emails about this time period  
13:37:05 24 where you reestablished contact with Abbott, okay?

13:37:09 25 A. Okay.

13:37:09 1 Q. And it looks like this was August 31st of  
13:37:16 2 2020. Do you see that?

13:37:18 3 A. I do.

13:37:18 4 Q. And you are on this email? Is that your  
13:37:22 5 email address?

13:37:23 6 A. It is.

13:37:24 7 Q. It was from Matt Kuchan at Abbott. You told  
13:37:27 8 us about -- or you told the jury about him earlier; is  
13:37:31 9 that right?

13:37:31 10 A. I did.

13:37:31 11 Q. And also on this email is a Dr. Barrett  
13:37:35 12 Reis, the jury met her briefly in opening; is that  
13:37:39 13 right?

13:37:40 14 A. That is her.

13:37:41 15 Q. That is her.

13:37:43 16 So Mr. Kuchan introduces you. It says, "AM  
13:37:50 17 -- that's Abbott -- has worked with Randy for a long  
13:37:53 18 time dating back to these two gentlemen," and puts you  
13:37:58 19 in contact with Dr. Reis; is that correct?

13:38:01 20 A. He did.

13:38:03 21 Q. Now, this quote here, was that something  
13:38:05 22 that you wrote?

13:38:06 23 A. It is.

13:38:07 24 Q. Okay. And you wrote -- when did you write  
13:38:11 25 that and who did you write it to?

1 A. I wrote it to Matt Kuchan just proceeding  
2 apparently that return email from him.

3 Q. Okay. What you wrote is: "I would also be  
4 grateful for the name and contact info for the person  
5 at Abbott I can reach out to about a possible clinical  
6 trial in South Asia evaluating a lactose only formula  
7 for preterm infants using the standard formula as the  
8 control."

9 Do you see that?

10 A. I do.

11 Q. This lactose only formula, that was the  
12 formula from your research that showed reduction in  
13 NEC, true?

14 A. Yes.

15 Q. Okay. And you write to Abbott: "As I  
16 mentioned, a large NICU in India switched to a lactose  
17 only term formula for preemies and NEC all but  
18 disappeared."

19 Do you see that?

20 A. I do.

21 Q. How did you come into that information?

22 A. A colleague of mine, Scott Howard, is a  
23 pediatric oncologist who goes to South Asia and had  
24 gone to visit a very large NICU in India and had met  
25 with the director of that NICU who explained to him

1 that they had a very high incidence of NEC in that  
2 NICU when they had been feeding a routine preterm  
3 formula, which would include glucose polymers.

4 So he decided to try something different and  
5 he switched to a term formula, which only had lactose.  
6 And as I wrote there, at that point in time the  
7 incidence of NEC in that unit fell.

8 Q. And it looks like Dr. Reis responds and  
9 writes: "No problem. I like his hypothesis."

10 There is one glitch. She doesn't know if  
11 India would allow research on human milk substitutes  
12 in the NICU.

13 Do you see that?

14 A. I do.

15 Q. As we move up the chain, you then email  
16 Dr. Reis directly; is that right?

17 A. I did.

18 Q. And you directly and personally inform her  
19 of the results of your research and what you had  
20 learned about the NICU in India; is that right?

21 A. Correct.

22 Q. You tell Dr. Reis that removing the glucose  
23 polymers and using lactose effectively eliminated NEC  
24 among the pigs and the reduction of NEC in the NICU in  
25 India, correct?



13:41:11 1 A. Correct.

13:41:17 2 **MR. PLATTENBERGER:** I'd like to offer 1162,  
13:41:19 3 Your Honor.

13:41:20 4 **THE COURT:** 1162?

13:41:25 5 **MS. ELIZABETH:** No objection.

13:41:27 6 **THE COURT:** It will be admitted over the  
13:41:28 7 previous objection.

13:41:31 8 **MR. PLATTENBERGER:** Thank you, Your Honor.

13:41:32 9 Q. (By Mr. Plattenberger) Okay. So this picks  
13:41:33 10 up on the email chain. And on September 17th you send  
13:41:43 11 an email to Dr. Reis and you say: "Just a quick  
13:41:48 12 follow-up to learn if we could do this study that you  
13:41:52 13 are suggesting. And also would like to schedule a  
13:41:55 14 time to talk. I would welcome your advice, insights  
13:41:59 15 and suggestions."

13:42:00 16 Do you see that?

13:42:01 17 A. I do.

13:42:01 18 Q. And she responded, looks like also on  
13:42:04 19 September 17th she responded to you, said: I've been  
13:42:07 20 really busy. I'd like to discuss your idea. I'm on  
13:42:11 21 vacation until these dates.

13:42:12 22 Do you see that?

13:42:13 23 A. I do.

13:42:14 24 Q. Were you able to establish -- let's just  
13:42:17 25 finish off the chain.

13:42:19 1 You write back and say: Any of those work

13:42:21 2 for me. We can set a day and time. Good luck.

13:42:28 3 Right?

13:42:29 4 A. Correct.

13:42:31 5 Q. Did you ever have contact with Dr. Reis

13:42:34 6 after you sent her this email on September 17th of

13:42:40 7 2020?

13:42:41 8 A. Not that I recollect.

13:42:46 9 **MR. PLATTENBERGER:** Your Honor, we offer

13:42:47 10 685.

13:42:49 11 **THE COURT:** 685.

13:42:53 12 **MS. ELIZABETH:** No objection.

13:42:54 13 **THE COURT:** All right. It will be admitted.

13:42:56 14 **MR. PLATTENBERGER:** Thank you, Your Honor.

13:42:59 15 Q. (By Mr. Plattenberger) You write to her

13:42:59 16 again on October 11th. So roughly three weeks later;

13:43:07 17 is that correct?

13:43:08 18 A. Correct.

13:43:09 19 Q. And why are you writing to her again? I

13:43:12 20 know it says it right there, but this is you

13:43:15 21 continuing to try to reach out and get this done?

13:43:18 22 A. Exactly.

13:43:18 23 Q. And you are not getting any response from

13:43:20 24 Dr. Reis or anyone else at Abbott; is that correct?

13:43:22 25 A. I did not.

Q. And here again you say: "Let me know when you might have time and I will adjust my schedule accordingly."

Right?

A. Correct.

Q. Okay.

**MR. PLATTENBERGER:** We offer 684, Your Honor.

**THE COURT:** 684?

**MS. ELIZABETH:** No objection.

**THE COURT:** It will be admitted.

Q. (By Mr. Plattenberger) This is another email from you to Dr. Reis; is that correct?

A. It is.

Q. And here it is October 29th. You say: "Good morning, are you still interested in talking about this concept of a preterm formula with only lactose, no maltodextrin as a source of carbohydrate to avoid NEC. If so, can we schedule a day and time next week to talk."

Is that right?

A. It is.

Q. Did you receive any response to this email?

A. I did not.

Q. And have you heard from or have any

13:56:04 1 **MR. PLATTENBERGER:** Last question. Thank  
13:56:05 2 you.

13:56:05 3 Go ahead, sir.

13:56:06 4 **THE WITNESS:** I didn't know that Andrea had  
13:56:09 5 NEC as an infant until we had already started these  
13:56:14 6 studies. So I wasn't drawn to NEC because of her, but  
13:56:19 7 I learned afterwards after we had already started our  
13:56:25 8 NEC studies that she was another infant that developed  
13:56:28 9 NEC, and she was born in 1984.

13:56:31 10 At that time, Carol could not produce breast  
13:56:34 11 milk so she had to be given formula. And at that  
13:56:39 12 point in time because preterm infants need more  
13:56:41 13 energy, they provided more energy in the form of corn  
13:56:47 14 syrup and so...

13:56:54 15 I don't know if I answered your question,  
13:56:55 16 but...

13:56:56 17 Q. (By Mr. Plattenberger) Perfectly. Thank  
13:56:57 18 you.

13:56:58 19 Were all of the opinions that you have  
13:57:00 20 offered here today to the jury to a reasonable degree  
13:57:03 21 of scientific certainty within your field?

13:57:05 22 A. Yes, they are.

13:57:07 23 **MR. PLATTENBERGER:** Thank you very much,  
13:57:08 24 Doctor. I'm going to turn you over to Abbott's  
13:57:11 25 questioning now.

15:00:50 1 Q. About 40. We went through that.

15:01:07 2 You know that Abbott has expertise in the  
15:01:10 3 legal and regulatory aspects of running clinical  
15:01:14 4 trials, correct?

15:01:15 5 A. I would assume they do.

15:01:18 6 Q. And you didn't tell the jury that Bridget  
15:01:22 7 Barrett Reis responded to your email and said, I  
15:01:26 8 believe India does not allow research on human milk  
15:01:28 9 substitutes in the NICU, right?

15:01:32 10 A. I believe that was in that document, so you  
15:01:34 11 did see that comment from.

15:01:44 12 Q. After the email chains that you showed where  
15:01:46 13 you said Abbott didn't respond to you again when you  
15:01:50 14 weren't associated with the university and you weren't  
15:01:53 15 actually working with Abbott at the time, you didn't  
15:01:55 16 try to contact anyone else at Abbott to try and  
15:01:59 17 follow-up about clinical research proposals for  
15:02:01 18 lactose only formulas, right?

15:02:04 19 A. I went to Matt Kuchan and he referred me to  
15:02:05 20 Bridget Barret Reis because she was in charge of  
15:02:08 21 clinical trials, so I did not know anybody else to  
15:02:12 22 whom I could contact.

15:02:18 23 Q. Since 2021, though, Dr. Buddington, you  
15:02:21 24 never reached out to anyone else in the scientific or  
15:02:26 25 commercial community about possibly running a clinical